

IEPA Log No.: **C-0500-16**
CoE appl. #: **LRC-2007-808**

Public Notice Beginning Date: **March 13, 2019**
Public Notice Ending Date: **April 12, 2019**

Section 401 of the Federal Water Pollution Control Act
Amendments of 1972

Section 401 Water Quality Certification for Discharge of Dredged or Fill Material

Public Notice/Fact Sheet Issued By:

Illinois Environmental Protection Agency
Bureau of Water
Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276
217/782-3362

Name and Address of Discharger: Horizon Group Properties – 10275 W. Higgins Road, Suite 560,
Rosemont, IL 60018

Discharge Location: Near Huntley in Section 7 and 8 of Township 42N, Range 7E of the 3rd P.M. in
Kane County.

Name of Receiving Water: Eakin Creek

Project Description: Proposed Huntley Retail Development Project.

The Illinois Environmental Protection Agency (IEPA) has received an application for a Section 401 water quality certification to discharge dredged or fill material into the waters of the U.S. associated with a Section 404 permit application received by the U.S. Army Corps of Engineers. The Public Notice period will begin and end on the dates indicated in the heading of this Public Notice. The last day comments will be received will be on the Public Notice period ending date unless a commenter demonstrating the need for additional time requests an extension to this comment period and the request is granted by the IEPA. Interested persons are invited to submit written comments on the project to the IEPA at the above address. Commenters shall provide their names and addresses along with comments on the certification application. Commenters may include a request for public hearing. The certification and notice number(s) must appear on each comment page.

The attached Fact Sheet provides a description of the project and the antidegradation assessment.

The application, Public Notice/Fact Sheet, comments received, and other documents are available for inspection and may be copied at the IEPA at the address shown above between 9:30 a.m. and 3:30 p.m. Monday through Friday when scheduled by the interested person.

If written comments or requests indicate a significant degree of public interest in the certification application, the IEPA may, at its discretion, hold a public hearing. Public notice will be given 30 days before any public hearing. If a Section 401 water quality certification is issued, response to relevant comments will be provided at the time of the certification. For further information, please contact Darren Gove at email darren.gove@illinois.gov or phone no. 217/782-3362.

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Horizon Group Properties (“Applicant”) has applied for a 401 Water Quality Certification for impacts associated with the construction of a large retail development located west of Route 47 and North of Jim Dhamer Drive, Huntley, Kane County, Illinois (Section 8, Township 42 N, Range 7 E).

The 41-acre Huntley Retail Development Project (“project”) site is within an approximately 214-acre property that has been owned by the Applicant since the 1980s. The proposed project includes one large retail building with 926 parking spots; three smaller retail buildings each with an average of 50 parking spots; three restaurants each with an average of 58 parking spots; a full interchange and signal on Route 47; a 3.07-acre naturalized stormwater management facility; and the relocation, reconfiguration, and reestablishment of Eakin Creek. Total impacts include 6.16 acres of jurisdictional wetlands and Waters of the U.S. and 0.4 acres of isolated wetlands. The mitigation for Eakin Creek would occur on the 41-acre project site and a 50.73-acre site downstream of the project is proposed for wetland mitigation.

The purpose of this project is to provide a single lot for a large retail development, in accordance with the Village of Huntley plan for the Route 47 corridor. Information used in this review was obtained from the USACE Individual Permit Submittal dated November 23, 2016; information packages dated October 12, 2017, and September 20, 2018; and subsequent materials provided by the Applicant in response to comments/questions.

Identification and Characterization of the Affected Water Body.

The proposed project includes the relocation and reconfiguration of Eakin Creek. Eakin Creek (IL_PQIC) is a General Use Water with 0 cfs of 7Q10 flow upstream of the project site during low-flow conditions. Eakin Creek is not listed as a biologically significant stream in the 2008 Illinois Department of Natural Resources publication *Integrating Multiple Taxa in a Biological Stream Rating System* or given an integrity rating in that document. Eakin Creek, Waterbody Segment IL_PQIC, has not been assessed by the Agency and is not listed in the draft 2016 Illinois Integrated Water Quality Report and Section 303(d) List. Eakin Creek is subject to enhanced dissolved oxygen standards. The project would impact 0.76 acres of Eakin Creek.

The Applicant conducted a baseline stream assessment to characterize the physical (habitat evaluation), biological (biological evaluation) and chemical (water quality analysis) conditions of the project site and downstream mitigation area. The habitat evaluation three sampling stations were located within the mitigation area (stations 1 and 2) and project area (station 3). The summary of the Ohio EPA QHEI habitat scoring ranged from 53 (station 1) to 65 (station 3). Stations 2 and 3 rated as Good habitat conditions, while Station 1 was given a Fair rating. Data from the macroinvertebrate survey showed only 1 EPT taxa was surveyed at 2 stations and none at the third. Overall, samples had very similar species present with very low diversity, whereas a healthy creek would typically have a much lower percent dominant taxa. The station 2 FBI rating was fair with stations 1 and 3 rating as fairly poor. The Applicant provided water chemistry data with two parameters identified as areas of concern including salinity samples (one from each station) averaging 0.4 ppt and total phosphorus samples (one from each station) averaging 0.05 mg/L. The stream assessment concluded that the health of Eakin Creek and associated macroinvertebrate communities are likely diminished by restricting habitat factors, surrounding land use, salinity and total phosphorus.

The Applicant completed a wetland delineation of the approximately 214-acre subject property to determine the presence, extent and quality of any wetlands or other areas under USACE and/or Kane County jurisdiction. The 41-acre project site (within the 214-acre subject property) would impact 5.4 acres of jurisdictional wetlands from Area 1A and Area 5 (5.32 acres and 0.08 acres, respectively) and 0.4 acres of non-jurisdictional wetlands from Area 2 and Area 4 (0.32 acres and 0.08 acres, respectively). The unnamed wetlands are General Use Waters with 0 cfs of 7Q10 flow upstream of the project during low-flow conditions. The unnamed wetlands are not listed as biologically significant in the 2008 Illinois Department of Natural Resources Publication *Integrating Multiple Taxa in a Biological Stream Rating System* or given an integrity rating in that document. The unnamed wetlands have not been assessed by the Agency, are not listed in the draft 2016 Illinois Integrated Water Quality Report and Section 303(d) List and are not subject to enhanced dissolved oxygen standards.

Area	On-Site Acres	Impacted Acres	Native Mean Conservation	Floristic Quality Index	Quality	Jurisdiction
1A	23.53	5.32	3.29	25.08	HQAR	USACE
2	2.38	0.32	2.47	10.19	Medium	Kane County
4	0.08	0.08	1.00	1.73	Low	Kane County
5	0.08	0.08	2.25	7.79	Non-HQAR	USACE

To determine the quality of the impacted wetland and riparian/creek bank vegetation specifically within the project site, the Applicant conducted a Floristic Quality Assessment, for the wetland areas (5.8 acres) and Eakin Creek (0.76 acres). The native FQI for the impacted wetland areas was 10.32 and 6.68 for the riparian creek banks. This assessment was used to determine the mitigation ratio for the project's impacts.

Identification of Proposed Pollutant Load Increases or Potential Impacts on Uses.

Total suspended solids are anticipated as a result of on-site grading, channelization and fill activities. Project construction would permanently impact 6.16 acres of wetland/Waters of the U.S., including the channelized Eakin Creek, and 0.48 acres of isolated wetlands, a total of 6.56 acres of impact. Grading and fill activities would permanently remove the use of the existing wetlands on-site and Eakin Creek would be relocated around the development. Impacts to the uses of downstream waters due to suspended solids are not anticipated, because the proposed project's discharge loading would be short-term and temporary. Benthic habitat would also be disturbed in the project area, although is anticipated to recover and improve over time in the reestablished stream and areas proposed for mitigation.

The Applicant has proposed stormwater management BMPs with three wetlands in series with water quality forebays to ensure phosphorus loading to Eakin Creek is similar to current conditions or reduced. One wetland BMP could remove approximately 40% phosphorus, two could remove approximately 64%, and three could remove approximately 79%. Runoff from about 51.6% of the site would flow through all 3 BMPs, another 23.3% would flow through two BMPs, and the final 25.1% would flow through the final BMP. The wetland BMPs would provide similar or improved shallow water flow through vegetation to result in similar or improved dissolved oxygen (DO). DO would also be enhanced at the stormwater basin outlet by inclusion of aeration structures/energy dissipaters and converting the channelized stream to a natural meandering stream with riffles.

Fate and Effect of Parameters Proposed for Increased Loading.

The proposed development would result in unavoidable impacts to 6.56 acres of Eakin Creek and adjacent wetlands. The mitigation ratio required is 3:1 for USACE jurisdictional streams and wetlands. Stream mitigation would consist of the relocation and re-meandering of a channelized portion of Eakin Creek on the project property and the establishment of high quality riparian buffer along the creek. Wetland mitigation would occur on 50.73 acres of unique wetland and upland habitats along a natural section of Eakin Creek downstream of the project and would consist of the reestablishment of wetland areas and the rehabilitation of degraded savanna buffer. A total of 23.67 acres of stream and wetland mitigation credits are proposed for the 6.56 acres of impact, a mitigation ratio of 3.6:1. The USACE has not determined whether the proposed mitigation is appropriate and practical or verified its adequacy. Long-term management of the mitigation area and Eakin Creek stream mitigation would be the responsibility of the Applicant, unless a suitable not-for-profit group is selected to manage the site.

Activity	Acres Mitigated	Mitigation Credits
Relocation of Eakin Creek and establishment of creek channel and riparian wetlands along eastern and northern perimeter of project site	2.21	2.21
Establishment of riparian buffer along the relocated Eakin Creek	10.48	1.57
Re-establishment of wetland along Eakin Creek downstream of the project site	9.82	9.82
Rehabilitation of wetland along Eakin Creek downstream of the project site	11.24	5.62
Preservation and rehabilitation of degraded savanna buffer downstream of the project site	23.47	3.52
Establishment of prairie buffer	6.2	0.93
Total	63.42	23.67

Purpose and Social & Economic Benefits of the Proposed Activity.

The purpose of the project is to build a commercial development that meets the demands for area services and results in an increase of construction and commercial/retail employment opportunities and tax revenues (property and retail sales).

Assessments of Alternatives for Less Increase in Loading or Minimal Environmental Degradation.

Alternative Site Locations: The Applicant considered the following site location alternatives, in addition to the proposed site location: the Huntley Outlet Mall site; the property west of the project site (along Jim Dhamer); or the Applicant-owned property east of Route 47 (a.k.a. Huntley Village Green). However, these sites were not feasible for several reasons, including, cost of purchase (or lack of ownership), absence of needed road infrastructure, and/or type of development restrictions.

Alternative On-Site Configurations: The Applicant considered the following on-site configuration alternatives, in addition to the proposed plan: avoidance of Eakin Creek floodplain/creek corridor or construction of a system of culverts under the project site. However, these alternatives were not feasible as they were determined to be cost prohibitive, reduced the availability of marketable retail space and/or lacked acceptable access to the project.

The Applicant's proposed plan includes environmental impacts that are unavoidable. The least intrusive alternative would be to not complete the project. This is not an acceptable alternative given the public interest in increasing economic development in the area. Impacts to site wetlands and streams would be

mitigated on-site. The construction of the proposed project would follow conditions set forth by the Agency and USACE.

Summary Comments of the Illinois Department of Natural Resources, Regional Planning Commissions, Zoning Boards or Other Entities.

The first EcoCAT consultation was initiated with IDNR on May 29, 2015, Project #1512987. The Illinois Natural Heritage Database showed that the Iowa Darter (*Etheostoma exile*) and Swainson's Hawk (*Buteo swainsoni*) may be in the vicinity of the project location. On November 3, 2015, IDNR had completed the review of the project and determined that, with the exception below, the resources identified were unlikely to be affected.

The project's activities are likely to result in a take of the Iowa Darter (*Etheostoma exile*), and IDNR recommended that the Applicant apply for an Incidental Take Authorization (ITA) for that species. The evaluation also requested the Applicant conduct a biological survey for the state-endangered Blanding's Turtle (*Emydoidea blandingii*). Additional recommendations for development of one area of the site and an application for a Salvage Permit were included in the consultation, which was valid for two years.

The Applicant completed a biological survey for the Blanding's Turtle (*Emydoidea blandingii*) and the Iowa Darter (*Etheostoma exile*). The results of the Blanding's Turtle (*Emydoidea blandingii*) survey determined that habitat in the project area is unsuitable for supporting a reproducing Blanding's Turtles (*Emydoidea blandingii*) population and any individual encountered would have been a transient. The Applicant selected two stations for the Iowa Darter (*Etheostoma exile*) survey, upstream and downstream, within the project area. No Iowa darters were collected at the downstream site; however, at the upstream site, 5 Iowa Darters (*Etheostoma exile*), including 3 females and 2 males just out of breeding condition, were collected, photographed and released unharmed.

A resubmittal of the IDNR EcoCAT consultation (was no longer valid) was initiated February 5, 2018, Project #1807043, and showed that the Blandings Turtle (*Emydoidea blandingii*), Iowa Darter (*Etheostoma exile*), and Swainson's Hawk (*Buteo swainsoni*) may be in the vicinity of the project location.

After additional review of the consultation and the biological survey completed by the Applicant, on February 9, 2018, IDNR determined that protected resources in the vicinity could be adversely affected by the proposed project. IDNR recommended that site work be completed during the Blandings Turtle (*Emydoidea blandingii*) inactive season of November 1st to March 1st. If work must occur during the active season, all on-site personnel should be educated about this species and be instructed to contact the IDNR immediately if encountered. Additional BMPs were also recommended. IDNR also determined that the Applicant should apply for an ITA for the Iowa Darter (*Etheostoma exile*) and obtain a salvage permit for any fish and mussel collection and relocation. Given the above recommendations are adopted, IDNR determined that impacts are unlikely and terminated the consultation as of February 9, 2018. The Applicant provided an additional consultation letter from IDNR providing the same recommendations and determination dated March 16, 2018. The project was also reviewed for cultural resource impacts and was determined to be in compliance with the Illinois State Agency Historic Resources Preservation Act.

A USFWS consultation dated May 29, 2015, determined there is potential habitat for the Northern long-eared bat (*Myotis septentrionalis*) on-site due to the presence of wooded areas. USFWS concluded that the project would have "no effect" on the species or habitat as long as tree clearing does not occur between April 1st and October 31st.

Agency Conclusion.

This preliminary assessment was conducted pursuant to the Illinois Pollution Control Board regulation for Antidegradation found at 35 Ill. Adm. Code 302.105 (antidegradation standard) and was based on the information available to the Agency at the time this assessment was written. We tentatively find that the proposed activity will result in the attainment of water quality standards; that all technically and economically reasonable measures to avoid or minimize the extent of the proposed increase in pollutant loading have been incorporated into the proposed activity; and that this activity will benefit the community by providing new commercial development. Comments received during the 401 Water Quality Certification public notice period will be evaluated before a final decision is made by the Agency.